

1 IN THE KENTUCKY PUBLIC SERVICE COMMISSION

2  
3  
4 IN RE: INVESTIGATION:

5 Case No. 2003-00433  
6 AN ADJUSTMENT OF THE GAS AND ELECTRIC RATES,  
7 TERMS, AND CONDITIONS OF LOUISVILLE GAS AND  
8 ELECTRIC COMPANY

9 and

10 Case No. 2003-00434  
11 AN ADJUSTMENT OF THE ELECTRIC RATES, TERMS, AND  
12 CONDITIONS OF KENTUCKY UTILITIES COMPANY

13 \* \* \*

14  
15 SWORN STATEMENT

16 OF

17 MARTHA MACHIKO ALLMAN

18 JULY 26, 2005  
19  
20

---

21 ELLEN L. COULTER, RPR  
22 Coulter Reporting, LLC  
23 101 East Kentucky Street  
Suite 200  
Louisville, Kentucky 40203  
(502) 582-1627  
24 FAX: (502) 587-6299  
25 E-MAIL: CoulterLLC@bellsouth.net

*sls/bms BOC*

I N D E X

Exhibit No. 1..... 12  
(Page 20 of PSC Employee Information  
Handbook)

A P P E A R A N C E S

SPECIAL GENERAL COUNSEL TO THE PUBLIC SERVICE  
COMMISSION:

JONATHAN D. GOLDBERG  
Goldberg & Simpson  
3000 National City Tower  
101 South Fifth Street  
Louisville, Kentucky 40202

1                   The sworn statement of MARTHA MACHIKO  
2 ALLMAN, taken in the offices of the Public Service  
3 Commission, 211 Sower Boulevard, Frankfort, Kentucky,  
4 on Tuesday, the 26th day of July, 2005, at  
5 approximately 2:00 p.m.

6  
7                   EXAMINATION

8  
9                   BY MR. GOLDBERG:

10                  Q.       Would you state your name for us.

11                  A.       Martha Machiko Allman.

12                  Q.       Okay. And your address, home address?

13                  A.       2030 Leestown Road, Frankfort,  
14 Kentucky, 40601.

15                  Q.       Okay. And are you presently employed?

16                  A.       No, I'm not.

17                  Q.       Okay. Let me take you back to a  
18 period in time, and let's call it September 2003  
19 through mid May 2004. Were you employed at that  
20 time?

21                  A.       Yes.

22                  Q.       Okay. And where were you employed?

23                  A.       At the Public Service Commission.

24                  Q.       All right. Here on Sower Boulevard?

25                  A.       Yes.

1 Q. And what did you do during that time  
2 period at the Public Service Commission?

3 A. I was an electrical engineer in the  
4 electric branch of the engineering division.

5 Q. All right. Do I take it you are a  
6 certified electrical engineer?

7 A. Registered --

8 Q. Registered.

9 A. -- professional engineer, yes.

10 Q. And with regard to your work here at  
11 the PSC, how long had you been here prior to  
12 September of 2003?

13 A. I first started working with the PSC  
14 right after college in May of 1985. I left in  
15 December of 1989 for two and a half years to work in  
16 Oregon, and then I returned to the Public Service  
17 Commission in July of 2002.

18 Q. Okay. From July 2002 to what point in  
19 time did you work in the engineering division?

20 A. The entire time until I resigned in  
21 February of 2005.

22 Q. Okay. That was the date I was looking  
23 for, February 2005. And you've told us you're a  
24 registered electrical engineer. Tell me what kind of  
25 work you performed in the engineering division.

1           A.       I started out as manager of the  
2 electric branch. My job was to supervise another  
3 engineer and two inspectors and their duties as well  
4 as be a working engineer myself. The branch itself  
5 was responsible for construction cases, accident  
6 investigations, service inspection, service quality,  
7 worked on depreciation issues as well. Subsequently,  
8 I spent a lot of my time working on RTO issues  
9 involving the Midwest ISO and the PJM.

10          Q.       Okay. Did you have any work to do  
11 with regard to rate cases?

12          A.       Yes.

13          Q.       Tell me what you did with regard to  
14 rate cases.

15          A.       Primarily worked on the depreciation  
16 aspect of the cases.

17          Q.       Okay. And who were your co-workers at  
18 that time, in 2002 to the time you left?

19          A.       Oh, all of them?

20          Q.       Oh, you had a lot.

21          A.       That's kind of hard to answer. Let's  
22 see.

23          Q.       All right. Well, let me focus it a  
24 little bit. September 2003 until mid March 2004.  
25 Maybe I can help you a little bit. Was Mr. Sharifi

1 one of your co-workers?

2 A. Yes.

3 Q. Okay. In addition to Mr. Sharifi, did  
4 you work with Ms. Edwards, Andrea Edwards?

5 A. Yes.

6 Q. Okay. And maybe I should be more  
7 specific. Within the engineering branch, besides  
8 Mr. Sharifi, who else -- who worked there during that  
9 time frame, and yourself?

10 A. I believe Gary Grubbs was the division  
11 director at the time. Elie Russell was in the  
12 branch. They've had a lot of changes recently, so  
13 I'm not sure -- I believe David White was still in  
14 the branch. I'm not sure if John Land had retired or  
15 not by then. I'm not sure if Steven Kingsolver had  
16 started by then.

17 Q. Okay.

18 A. George Wakim I think was manager of  
19 the water branch. Kyle Willard was manager of the  
20 communication branch, and I'm not sure if Eddie Smith  
21 was still working at that time or not or whether he  
22 retired.

23 Q. With regard to rate cases, was the  
24 engineering branch's participation only to deal with  
25 issues of depreciation?

1           A.       Practically, it ended up that way.  
2 But, you know, we'd still generally review the entire  
3 case to see if there's any kind of -- you know,  
4 occasionally there might be a request for  
5 extraordinary retirements or amortizations or  
6 anything of that nature, and we'd generally get  
7 involved in that. Like there's a bad storm or  
8 something, take a look at those issues. If there's  
9 any kind of accelerated replacement of equipment  
10 which happens in telephone, but not --

11           Q.       Do you recall the LG&E/KU cases, the  
12 rate cases?

13           A.       Yes.

14           Q.       Okay. I'm going to refer to them  
15 sometimes by their numbers. LG&E was 2003-00433, and  
16 KU was 2003-00434. Now, am I understanding it  
17 correctly that Mr. Sharifi was in your branch and  
18 that you were branch manager, meaning you managed  
19 Mr. Sharifi?

20           A.       No.

21           Q.       Okay.

22           A.       Mr. Sharifi is in the gas branch, and  
23 he handled the gas side of LG&E.

24           Q.       Okay. You were in the electrical?

25           A.       I was in the electrical branch.

1 Q. Engineering branch?

2 A. Correct.

3 Q. With regard to the KU and LG&E cases,  
4 did you handle the electrical side?

5 A. Yes.

6 Q. Okay. Am I to understand that your  
7 work in those two rate cases was to deal, then, with  
8 depreciation issues related to the electrical side?

9 A. That's right, correct.

10 Q. And Mr. Sharifi dealt with gas  
11 issues --

12 A. That's correct.

13 Q. -- and depreciation.

14 Okay. Do you recall how you got this  
15 assignment to work on the two rate cases?

16 A. No. It's generally randomly -- not  
17 randomly assigned, but when the new case comes in,  
18 the manager looks at case workload and I suspect a  
19 certain amount of interest in specific cases. Like  
20 Elie Russell tended to get more of the distribution,  
21 construction cases because he seemed to enjoy them.

22 Q. With regard to these two cases, they  
23 both had electrical components to them, did they not?

24 A. Yes.

25 Q. Okay. Now, are you familiar with the



1 North American Stainless and KU case?

2 A. I vaguely recall an issue with  
3 American Stainless.

4 Q. Do you have a recollection that the  
5 North American Stainless KU complaint and then the KU  
6 tariff with regard to North American Stainless were  
7 consolidated in the two rate cases?

8 A. Yes.

9 Q. Okay. With regard to the rate cases  
10 themselves and the depreciation issues that you  
11 worked upon, did you participate in forming data  
12 requests?

13 A. Yes.

14 Q. Okay. Do you have a recollection of  
15 when you would have performed that task? And again,  
16 let me give you some time frame to be helpful.  
17 December -- late November, early December 2003  
18 application for the two rate cases -- applications  
19 are filed. And the first informal conference is  
20 April 28, 2004. Within that time period, do you have  
21 a recollection of when you would have performed data  
22 requests?

23 A. No, I don't.

24 Q. Okay. And as I understand it, the  
25 data request is one document that is sent out. Do I

1 take it that you would have developed questions  
2 related to depreciation schedules on the electrical  
3 side for the data request?

4 A. That's correct. It's not just one  
5 data request. I believe there was probably two or  
6 three.

7 Q. Okay. The same process, you would  
8 have developed questions?

9 A. That's correct.

10 Q. Who would you have given those  
11 questions to?

12 A. The team leader of the case, and I'm  
13 not really sure who that would have been now.

14 Q. Okay.

15 A. Because a lot of it was handled  
16 through e-mail and it was broadcast to the entire  
17 team, so ...

18 Q. Who do you recall being on the team?  
19 And let me give you some help here.

20 A. I can remember Isaac Scott.

21 Q. Okay.

22 A. Richard Raff, I believe Jeff Shaw,  
23 Faud Sharifi.

24 Q. Andrea Edwards?

25 A. Yes, yes.

1 Q. Okay. Mr. Blakley?

2 A. Yes.

3 Q. Anybody else?

4 A. I'm not sure. We worked so many -- on  
5 so many cases together that the addition or absence  
6 of one was unusual. We fairly commonly worked  
7 together.

8 Q. Okay. Moving forward from the time  
9 data requests went out, when data request information  
10 came back, did you analyze that?

11 A. Yes.

12 Q. Did you draft memoranda or make some  
13 sort of report?

14 A. I'm not sure that -- at what point --  
15 I know at one point I noticed some problems. I  
16 e-mailed the team and advised them of the problems.  
17 I'm not sure if that's a report or --

18 Q. Okay. Anything else you recall?

19 A. No, I don't recall developing like a  
20 formal report for the commission or anything. It was  
21 all within the team.

22 Q. Moving forward to April 28, 2004, do  
23 you recall an informal conference that you may or may  
24 not have participated in on that day?

25 A. No, I don't.

1 Q. Okay. Did you participate in any of  
2 the hearings and/or settlement discussion of May 3rd,  
3 4th, 5th and 6th?

4 A. I attended the hearings. I didn't  
5 participate in settlement discussions to the extent  
6 that -- I remember them coming back to the group or  
7 the hearing reporting their progress. But as far as  
8 getting involved in the negotiations, I didn't  
9 participate in that.

10 Q. Okay. Do you recall who from the team  
11 participated?

12 A. No, I don't.

13 Q. All right. Prior to the informal  
14 conference on April 28, 2004, as part of your work on  
15 the two rate cases, did you have occasion to  
16 communicate with anybody from LG&E or KU?

17 A. No, I didn't. I don't remember,  
18 except for the data requests.

19 Q. Yeah, except for the data requests  
20 that you had input on. You didn't send out the data  
21 requests from your office, did you?

22 A. No, I didn't.

23 (DEPOSITION EXHIBIT NO. 1 PREVIOUSLY  
24 MARKED)

25 Q. Okay. What I'm showing you is the

1 employee information handbook, which I trust you have  
2 seen before.

3 A. Yes.

4 Q. Okay. And I am turning to page 20,  
5 "Improper Ex Parte Communication," subsection G. Do  
6 you see that?

7 A. Mm-hmm.

8 Q. And I trust you were familiar with the  
9 ex parte communication procedure?

10 A. Yes.

11 Q. Okay. And the fact that it was -- any  
12 kind of communication with persons outside of the  
13 staff were not allowed. You're aware of that  
14 principle?

15 A. Yes.

16 Q. Okay. Had you had any training with  
17 regard to the ex parte communication policy?  
18 Training may be an unwieldy word. Was there  
19 communication from the management of the Public  
20 Service Commission to the people who worked on the  
21 staff about ex parte communications on a regular  
22 basis?

23 A. That's a difficult one to answer.  
24 What I can say is that it was made very clear what  
25 was permitted and what was not.

1           Q.       Okay. And what was your understanding  
2 of what was not permitted?

3           A.       That we would have no communication  
4 with the utility or any of the parties of the case --  
5 of the formal case that existed outside of the case.  
6 Like it would be permitted if all parties were  
7 advised and in the room or something of that nature,  
8 invited, you know, if there's going to be a  
9 conference. Those kind of communications were  
10 permitted, but it wasn't permitted to call somebody  
11 up and discuss the case with them.

12          Q.       Fair enough. And I take it you  
13 followed that rule throughout your work on the two  
14 rate cases --

15          A.       Yes.

16          Q.       -- LG&E and KU.

17          A.       Yes.

18          Q.       Now, with regard to that -- and so  
19 that our statement is clear -- at no time did you  
20 communicate with anybody from LG&E, KU, KIUC, the  
21 attorney general's office or any of the other  
22 interveners, am I correct, other than in a  
23 formally-called hearing setting?

24          A.       That -- I never discussed the case  
25 with any of those parties outside of the hearing.

1 Q. Okay.

2 A. Whether or not there were other  
3 meetings, other cases, informal conferences,  
4 conference calls on other issues, there probably  
5 were.

6 Q. Let me deal with the rate cases  
7 themselves, which is -- if I was inartful, I  
8 apologize. With regard to the rate cases, 00433 and  
9 00434, did you have any communication with anybody  
10 from LG&E, KU or any of the interveners?

11 A. Not regarding the rate case.

12 Q. Fair enough. And when you say "not  
13 regarding the rate cases," I trust there are other  
14 issues in the branch that would come up that would  
15 affect LG&E and KU that you'd have communication on.

16 A. That's correct. Principally accidents  
17 and investigation and that sort of thing.

18 Q. And that is the work of the Public  
19 Service Commission.

20 A. That's correct.

21 Q. In addition to rate cases.

22 A. That's correct.

23 Q. But you clearly were aware of the  
24 ex parte communication policy.

25 A. Yes.

1           Q.       And made sure that you followed that  
2 as best you could.

3           A.       Yes.

4           Q.       Okay. Now, you didn't participate in  
5 the negotiations. Did you become aware that a  
6 settlement agreement had been agreed to?

7           A.       Yes.

8           Q.       Okay. And did you have an  
9 understanding of the attorney general's position in  
10 the settlement agreement?

11          A.       Not entirely.

12          Q.       Okay. And you may not have that  
13 today.

14          A.       That's correct.

15          Q.       Okay. Fair enough. And you didn't  
16 participate in the settlement discussions.

17          A.       That's correct.

18          Q.       Did you ever discuss any of the  
19 issues, be they substantive or procedural, of the two  
20 rate cases with Tom Dorman?

21          A.       I don't recall.

22          Q.       Okay. You do know who Tom Dorman is,  
23 of course.

24          A.       Yes.

25          Q.       He was the executive director of the



1 Public Service Commission during that period of time?

2 A. That's correct.

3 Q. Okay. Do I take it you don't have a  
4 present recollection of having had a conversation,  
5 but it's possible you could have?

6 A. Yes.

7 Q. Okay. If you did have a conversation,  
8 would it have been about the merits or would it have  
9 been about procedural issues?

10 A. Procedural.

11 Q. Okay. When we say "procedural," are  
12 we talking about scheduling?

13 A. That's correct, which management is  
14 more involved in the scheduling and work flow of  
15 cases rather than substantive issues until there's a  
16 problem or something unusual comes up or until the  
17 time for a decision is made.

18 Q. Okay. In your work on the two rate  
19 cases, did you have occasion to discuss them with any  
20 of the commissioners?

21 A. I don't recall. Commissioners, you  
22 know, on occasion would stop by and ask a question or  
23 something of that nature, but on different cases,  
24 different issues. I don't recall if that occurred on  
25 this case or not.

1           Q.       Okay. You have no recollection of any  
2 particular commissioner coming into your office and  
3 discussing LG&E or the KU case.

4           A.       No, I don't.

5           Q.       Okay. Fair enough. In reading the  
6 paper or otherwise, have you become aware of the  
7 issues raised by the attorney general with regard to  
8 collusion and/or ex parte communication?

9           A.       Yes.

10          Q.       Okay. Do you have any independent  
11 knowledge of any ex parte communications or collusion  
12 in the two rate cases, KU and LG&E?

13          A.       No.

14                   MR. GOLDBERG: Okay. That's all I  
15 have.

16                   THE WITNESS: Okay.

17

18                   (STATEMENT CONCLUDED AT 2:20 P.M.)

19                               \*     \*     \*

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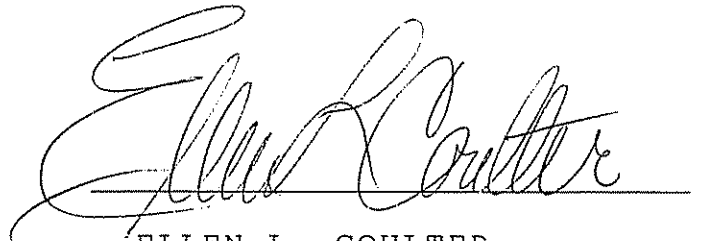
1 STATE OF KENTUCKY )(   
 2 COUNTY OF JEFFERSON )( SS:   
 3

4 I, ELLEN L. COULTER, Notary Public,   
 5 State of Kentucky at Large, hereby certify that the   
 6 foregoing sworn statement was taken at the time and   
 7 place stated in the caption; that the appearances   
 8 were as set forth in the caption; that prior to   
 9 giving testimony the witness was first duly sworn by   
 10 me; that said testimony was taken down by me in   
 11 stenographic notes and thereafter reduced under my   
 12 supervision to the foregoing typewritten pages and   
 13 that said typewritten transcript is a true, accurate   
 14 and complete record of my stenographic notes so   
 15 taken.

16 I further certify that I am not   
 17 related by blood or marriage to any of the parties   
 18 hereto and that I have no interest in the outcome of   
 19 captioned case.

20 My commission as Notary Public expires   
 21 November 5, 2007.

22 Given under my hand this the 4th   
 23 day of August, 2005, at Louisville,   
 24 Kentucky.   
 25



ELLEN L. COULTER   
 NOTARY PUBLIC

1 I, the undersigned, MARTHA MACHIKO ALLMAN,  
2 do hereby certify that I have read the foregoing  
3 sworn statement, and that, to the best of my  
4 knowledge, said sworn statement is true and  
5 accurate, with the exception of the corrections, if  
6 any, listed on the errata sheet.

7  
8 Martha Machiko Allman

9 MARTHA MACHIKO ALLMAN

10  
11 Subscribed and sworn to before me this 10th  
12 day of October, 2005.

13  
14  
15 May Annan Bittner  
16 NOTARY PUBLIC  
17

18  
19 My commission expires Nov. 30, 2008  
20  
21  
22  
23  
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2

COULTER REPORTING, LLC  
101 EAST KENTUCKY STREET, SUITE 200  
LOUISVILLE, KY 40203

ERRATA SHEET

NAME MARTHA MACHIKO ALLMAN DATE OF DEPOSITION 7/26/05

After having read my deposition, I wish to make the following changes:

Page 4 Line 14  
Change delete "right"  
Reason for change unnecessary

Page 5 Line 3  
Change delete "and their duties"  
Reason for change unnecessary (I believe I probably actually said "in" not "and")

Page 5 Line 4  
Change "be" to "was"  
Reason for change grammar

Page 7 Line 2  
Change delete "you know"  
Reason for change grammar

Page 7 Line 3  
Change replace "kind of -- you know" with "engineering issues"  
Reason for change clarity

Page 7 Line 7  
Change add "if" between "like" and "there is"  
Reason for change clarity

Page 8 Line 20  
Change omit comma after "distribution"  
Reason for change the word distribution modifies construction

Page 11 Line 4  
Change omit the first "so many --"  
Reason for change redundant

Page 11 Line 6-7  
Change replace the sentence beginning with "We fairly ..." with the indicated sentence  
Reason for change clarity

Sworn before me on 10/10/05.

Examiner 11/2/10

Martha Machiko Allman  
My former Petitioner  
Notary Public

COULTER REPORTING, LLC  
101 EAST KENTUCKY STREET, SUITE 200  
LOUISVILLE, KY 40203

ERRATA SHEET

NAME MARTHA MACHIKO ALLMAN DATE OF DEPOSITION 7/26/05

After having read my deposition, I wish to make the following changes:

Page 11 Line 14  
Change delete "I'm not ... point"  
Reason for change unnecessary

Page 12 Line 7  
Change insert "and" between hearing-reporting  
Reason for change grammar, clarity

Page 13 Line 7  
Change replace "mm hmm" with "yes"  
Reason for change clarity

Page 14 Line 6  
Change delete "Like"  
Reason for change unnecessary

Page 14 Line 7  
Change add "or" after nature  
Reason for change clarity

Page 14 Line 8  
Change delete "you know"  
Reason for change unnecessary

Page 17 Line 13  
Change delete "which"  
Reason for change grammar, clarity

Page 17 Line 21-22  
Change delete "you know"  
Reason for change redundant

Page      Line       
Change       
Reason for change

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EMPLOYEE INFORMATION HANDBOOK

**EXHIBIT**

ALLMAN

7-26-05

#

The contents of this Employee Information Handbook reflect the current policies and procedures in effect at the PSC at the time of its printing.

Amendments to personnel law, regulations and policies may modify or supercede all statements in this information handbook.

It is the policy of the Public Service Commission to affirm equal opportunity for employment and advancement to all qualified persons without regard to race, color, religion, national origin, disability, sex, age, or sexual orientation.

Printed with State Funds

Effective 10-1-93

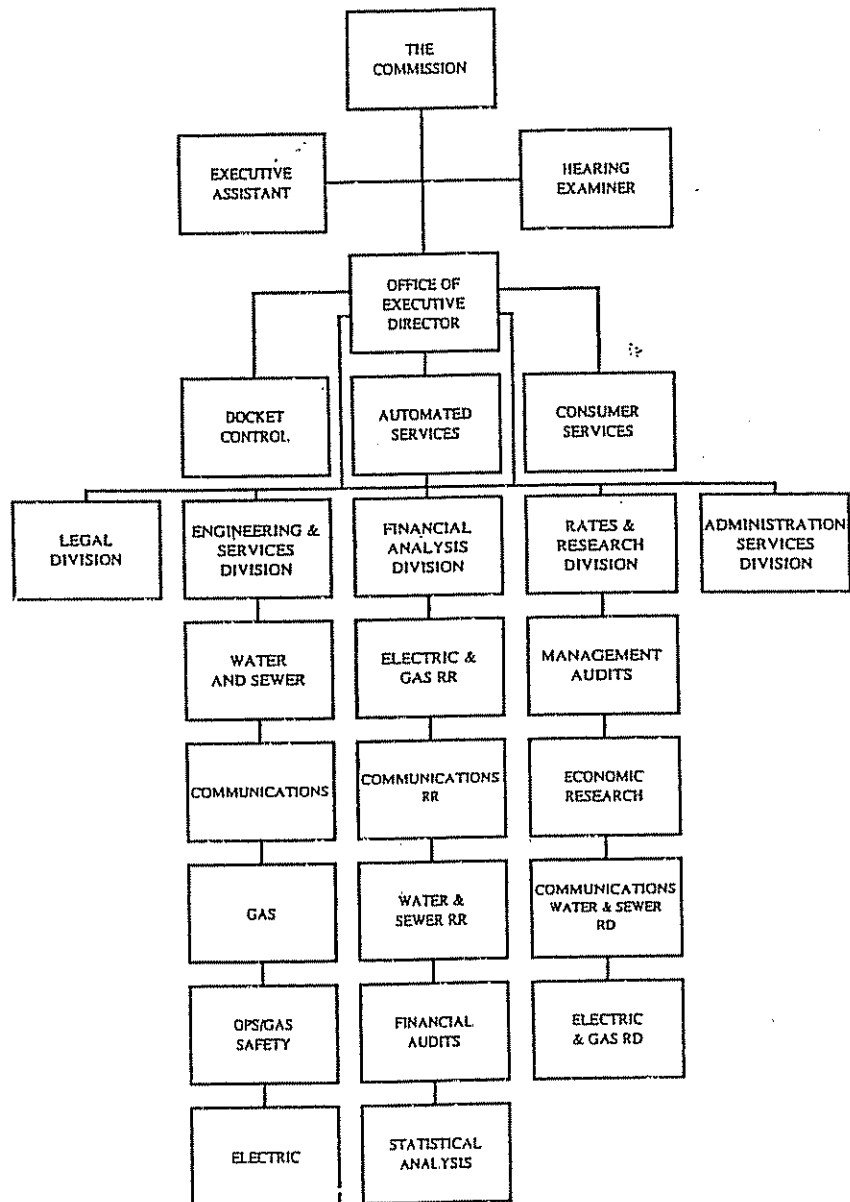


# PSC EMPLOYEE HANDBOOK

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# Public Service Commission Organizational Chart



# PSC INFORMATION HANDBOOK

## Introduction

The Commissioners and management team of the Kentucky Public Service Commission (PSC) recognize their employees as their most valuable asset. This booklet has been prepared to help employees learn about their commission, its structure and functions, and some of the many facets of the employment relationship into which they have entered. In referring to employees, "he" shall mean male or female.

Questions concerning employment should be directed to your immediate supervisor, or to your agency Personnel Administrator.

The Public Service Commission is an independent administrative body established by the Legislature in 1934 with quasi-legislative and quasi-judicial duties.

The Commission regulates intrastate rates and services of investor-owned electric, natural gas, telephone, water and sewage utilities, rural electric and telephone cooperatives, and water districts and associations. The Commission performs its regulatory functions through written orders following adjudicative and rulemaking procedures outlined in Chapter 278 of the Kentucky Revised Statutes and administrative regulations promulgated by the Commission in Title 807 of the Kentucky Administrative Regulations.

The Commission's goal is to ensure that every utility within its jurisdiction charges fair, just and reasonable rates for the services rendered and that those services are safe, adequate, efficient and reasonable.

The PSC consists of three (3) members appointed by the Governor with the advice and consent of the Senate. Commissioners are appointed for staggered four year terms. Appointments run from July 1 to June 30, with each commissioner staying in the office until his successor is sworn into office. The Governor designates one commissioner to act as Chairman and Chief Executive Officer and a second commissioner to serve as Vice Chairman and act for the Chairman in the latter's absence.

The PSC is divided into the following units: General Counsel (Legal), Engineering, Rates and Research, Financial Analysis, and Administrative Services. The Commission appoints an Executive Director, to serve at its pleasure, and to act as Chief Administrative Officer directing day-to-day operation of the Commission.

## **Affirmative Action Policy**

The Commission is committed to the law of the Commonwealth in establishing a work place free from the injustices of discrimination. It is the policy of the Commission to affirm equal opportunity for employment and advancement to all qualified persons without regard to race, color, religion, national origin, disability, sex, age, or sexual orientation. Any employee who believes he has been subjected to discriminatory treatment in the workplace has the responsibility immediately to bring the problem to the attention of the agency Personnel Administrator.

## **The Americans With Disabilities Act of 1990 (ADA)**

The Americans With Disabilities Act, 42 U.S.C. § 12101 et seq., is a federal law that requires that public facilities and programs, when viewed in their entirety, be accessible to persons with all types of disabilities. The ADA also makes it unlawful to discriminate against a qualified person with a disability in any aspect of employment. The ADA applies to Commission employment practices and the terms, conditions and privileges of employment. The ADA protects qualified persons with a disability. This includes current Commission employees, qualified applicants seeking Commission employment and citizens seeking to utilize Commission facilities and programs. Contact the agency Personnel Administrator for further information.

## **Sexual Harassment Policy**

The Commission does not tolerate sexual harassment of any kind. Sexual harassment in the workplace is a serious offense against the dignity of fellow workers and a violation of both state and federal law. Sexual harassment is viewed as misconduct and will subject any offending employee to disciplinary action up to and including dismissal. Any employee who has a complaint of sexual harassment at work by supervisors, co-workers, visitors or clients should immediately bring the problem to the attention of his supervisor, or, if the complaint involves supervisory personnel in the employee's line of command, complaints may be made to another supervisor, the agency Personnel Administrator or the Cabinet Personnel Administrator.

## Vacancies

When a vacancy occurs in the Commission, it is usual practice to attempt to fill the position from within the agency or state government through promotion or transfer. When recruiting from the outside for a merit position, a register of names is requested from the Department of Personnel for the vacant position. A selection is made from this register. The new employee serves a probationary period of six months to obtain merit status. Non-merit appointments are made by the Commission to serve at the pleasure of the Commission.

## Probationary Period

1. Initial probationary period is the period an agency observes an employee's job performance and determines to continue his employment or terminate it. The initial probationary period is six months. Employees who perform satisfactorily gain merit system status.
2. Promotional probationary period is the six months following a promotion during which the agency observes the employee's job performance. With satisfactory performance, the employee gains merit system status in the new job. If performance is not satisfactory, the employee is returned to his former position or to a position in the same job classification as the former position.

## Transfers

If an employee wishes to transfer to another position or location within the Commission, he should submit the request in writing to his supervisor. If an employee wishes to transfer to another state agency, it is his responsibility to locate the new position. The Commission and the hiring agency will coordinate the transfer of Personnel records. The employee is responsible for notifying his immediate supervisor and negotiating a transfer date.

## Promotions

Promotion is a change from a position in one class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility. Employees who are promoted are required to serve a **promotional probationary period**. Employees who are promoted retain their status in the class from which they are promoted; if an employee does not successfully complete the promotional probation he must revert to a position in his former class. An employee who is promoted receives a salary increase of at least five percent or advances to the minimum of the grade for the new position (whichever is greater). An agency may give a five percent promotional increase to an employee who successfully completes promotional probation. If the promotion is to a position which constitutes an unusual increase in the level of responsibility, the agency, with the prior written approval of the Commissioner of Personnel, may grant upon promotion a ten percent or fifteen percent salary increase over the employee's previous salary.

## Reclassifications

A reclassification occurs when an employee is given a different job classification because of a **material and permanent** change in his duties or responsibilities. An employee who is advanced to a higher pay grade through reclassification shall receive a salary increase of five percent except that in no case shall the employee's salary be below the minimum for the new pay grade. An employee placed in a lower pay grade through reclassification shall receive the same salary he received before reclassification.

## Hours of Work

Full-time state employees are required to work 7.5 hours per day. Part-time and hourly employees shall be scheduled to work hours in accordance with the needs of the position. The normal work hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday, unless flextime has been approved by the Executive Director. The employee shall not be scheduled to begin work earlier than 7:30 a.m. nor later than 8:30 a.m. Habitual tardiness or excessive absenteeism from work stations shall constitute grounds for disciplinary action.

## **Training**

The Commission encourages all employees interested in career development to take advantage of courses offered at the Governmental Services Center at Kentucky State University. The Commission also encourages job enrichment through work-related workshops and seminars of a technical nature to improve job efficiency and effectiveness if within the budgetary allowance.

## **Performance Evaluations**

Performance evaluations enable both the supervisor and employee to determine whether the employee is meeting the requirements of the job. Performance evaluations, updated job descriptions, standards and goals are to be completed for merit employees on June 30 (mid-year) and December 31 (year-end) of each year. An employee is not eligible to begin the evaluation process unless his probationary period is completed by January 1 of the year for which he is to be evaluated.

## **Job Classification**

The goal of the classification process is to maintain a system that accurately matches what the employee does with how the employee is classified. Each employee has a detailed position description (PD) of his job duties. The PD is developed and monitored as a joint effort of both the employee and his supervisor.

## **Compensation (Pay) System**

When jobs are classified, they are evaluated on thirteen (13) factors and compared to jobs in their proposed class. The following factors are included in the evaluation: minimum education requirement; minimum experience requirement; supervisory responsibilities; responsibilities for following, interpreting, enforcing, or developing policies or procedures; responsibility for materials and supplies; authority to handle and spend money; responsibility for personal contacts; responsibility for records and reports; responsibility for machinery and equipment; types of mental skills required; types of mental demands required; types of physical demands; and types of working conditions. This evaluation provides a basis for internal ranking of classes. In addition, the Department of Personnel maintains information about the salaries other employers pay for similar jobs. Using all available information, each class is assigned a pay range on the salary schedule.

## Paychecks

All payroll checks are paid two weeks in arrears. For example, a new employee will not receive his first paycheck for four weeks. If the appointment date is September 1, he will receive his first check on September 30 for the September 1 - 15 pay period. Payday is always on the 15th and 30th of each month, unless payday falls on a Saturday or Sunday, in which case paychecks are delivered on the preceding Friday.

## Resignation

An employee who desires to terminate his service with the state shall submit a written resignation to the agency. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

## Retirement

All salaried employees and hourly Commission employees working an average of 100 hours a month are members of the Kentucky Employees Retirement System and contribute 5% of their base pay to the retirement system. The state contributes 7.65% of the employee's base salary to his retirement account. The following are benefits provided by the Retirement System:

### Normal Retirement

1. A member who has attained age 65 and has acquired at least 48 months of service credit (12 months must be current service) is eligible for an annual retirement benefit as determined by the following formula:

YEARS OF SERVICE X 1.97% X FINAL COMPENSATION\*

EXAMPLE: A member has 20 years of service and final compensation of \$15,000.

$$20 \times 1.97 = 39.4\%$$

$$39.4\% \text{ of } \$15,000 = \$5,910 \text{ annual payment}$$

$$\$5,910 \text{ divided by } 12 = \$492.50 \text{ monthly payment}$$

\*Final compensation is the average annual salary earned during the five fiscal years when the member's salary was highest.



2. A member who has attained age 65 but has less than 48 months of service is eligible for a monthly benefit equal to the actuarial equivalent of twice the member's accumulated contributions. This amount must be calculated by the retirement system.

#### Early Retirement

1. A member may elect early retirement at any age with no decrease in benefits if the member has 27 years of service credit. At least 15 years of the service must be current service.
2. A member may choose early retirement if he is age 55 or older and has at least 60 months of service credit.
3. A member may also choose early retirement if he is under age 55, and has at least 25 years of service, 15 of which must be current service. The benefits are calculated the same as for normal retirement and are reduced 5% for each year of service credit under 27.
4. Under early retirement, the benefit is calculated the same as under normal retirement, except that benefits are reduced depending on the member's age or years of service.

#### Disability Retirement

A member who has acquired 60 months of service credit (12 months must be current service) is eligible for a monthly disability benefit if he should become disabled while actively contributing to the retirement system. Application for disability benefits must be made within 12 months of termination of employment. Disability benefits are calculated in the same manner as Normal Retirement benefits except that additional years of service credit may be added to the member's account and years of service at the time of disability.

Any questions should be referred to the Kentucky Employees Retirement System office at (502) 564-4646.

### **Deferred Compensation**

All Kentucky state government employees may participate in the Deferred Compensation program. Deferred Compensation lets the employee set aside income from his paycheck for retirement. Money set aside for Deferred Compensation is

automatically payroll deducted twice each month. The employee pays no state or federal income tax on the money deferred until he begins receiving benefit payments at retirement or early retirement, when he may be in a lower tax bracket. For additional information, contact the Kentucky Public Employees Deferred Compensation System at 564-7240.

## **U.S. Savings Bonds**

Savings Bonds are available to all employees through payroll deduction. Employees should contact the agency Personnel Administrator for forms and information.

## **Credit Unions**

A state employee may join the Commonwealth Credit Union or the Kentucky Employees Credit Union. Each offers a wide range of financial services, including secured and unsecured loans, savings plans, and payroll deductions. Information may be obtained by calling:

Commonwealth Credit Union	(502) 564-4775
Kentucky Employees Credit Union	(502) 564-5597

## **Workers' Compensation**

All Commission employees are protected by Workers' Compensation. If an employee is injured at work, he should advise his supervisor immediately. Reporting should be coordinated through the Personnel Administrator's office. Failure to report injuries to the supervisor within 24 hours may jeopardize an employee's entitlement to Workers' Compensation benefits.

## **Unemployment Insurance**

All employees of the Commission (except Commissioners) are eligible for unemployment compensation under certain circumstances. Direct any questions to the agency Personnel Administrator.

## Agency Leave Procedures

Accumulation and use of the following leave are controlled by 101 KAR 2:100:

Annual	Voting
Sick	Blood Donation
Compensatory	Military
Court	

## Family and Medical Leave Act of 1993 (FMLA)

FMLA, 29 U.S.C. §2601 et seq., requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Unpaid leave must be granted for any of the following reasons:

- > to care for the employee's child after birth, or after placement of a child with the employee for adoption or foster care;
- > to care for the employee's spouse, child, or parent, who has a serious health condition; or
- > for a serious health condition that makes the employee unable to perform his job.

### Job Benefits and Protection:

- > For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- > Return from FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

For additional information regarding FMLA, please contact the agency Personnel Administrator.

## Holidays for State Personnel

State offices shall be closed and state employees shall be given a holiday on the following days:

- (a) The 1st day of January plus one extra day;
- (b) The 3rd Monday in February;
- (c) Good Friday, one-half day;
- (d) The last Monday in May;
- (e) The 4th day of July;
- (f) The 1st Monday in September;
- (g) Presidential election day as required under KRS 2.190;
- (h) The 4th Thursday in November plus one extra day;
- (i) The 25th day of December plus one extra day.

## Smoking Policy

To provide a workplace that respects the rights of non-smokers, while ensuring smokers are not deprived of their rights, smoking is permitted only in specifically designated areas. **This policy is in effect at all times.**

## Health Insurance

An employee has the option of receiving coverage through the carrier holding the state health insurance contract or if he lives or works within a defined service area, he may choose coverage through one of the health maintenance organizations (HMO's). Health coverage becomes effective the first day of the second month following the date of employment. When his employment terminates, the employee remains covered for the following month by the state's contributions.

The Retirement System provides hospital/medical insurance or Health Maintenance Organization coverage for recipients of a retirement benefit. Participation in these plans is optional and a recipient may purchase, at his own expense, coverage for his beneficiaries and dependents. The cost of coverage for the retirement system member may be partly paid by the retirement system depending on the number of years of service that the member accumulated. Percentages of the premium that will be paid by the system are as follows:

Less than 4 years	0%
4 - 9	25%
10 - 14	50%
15 - 19	75%
20 or more years	100%

## Life Insurance

All eligible employees receive term life insurance coverage paid for by the state in the amount of \$6,560.00. To be eligible for life insurance benefits, a state employee must be a contributing member to one of the state administered retirement systems. The insurance becomes effective the first day of the second month following the date of employment. As with health insurance coverage, an employee will be covered by the state term life insurance one month following his separation from state service. State employees also have the option of purchasing additional life insurance. See the agency Personnel Administrator for additional information.

## Other Insurance

Several dental insurance options are available for state employees through payroll deduction. The state does not contribute toward any of these premiums. Many premiums can be payroll deducted. See the agency Personnel Administrator for additional information.

## Commonwealth Choice

Commonwealth Choice is a tax-saving opportunity that can benefit employees and their families who have dependent day care or out-of-pocket healthcare expenses. **Commonwealth Choice is not an insurance plan.** This optional benefit was implemented by the Kentucky Department of Personnel to help reduce taxes and increase spendable income. The cost-saving advantage of the plan is simple: any eligible dependent care and health care expenses paid through the plan are tax free. No federal or state income tax or Social Security tax on the money used to pay these eligible expenses is owed. Any full-time or permanent part-time, active state government employee who is eligible for state-sponsored health insurance coverage and will have completed one full year of continuous service by December 31 of a given year, can enroll in this tax-saving plan. For additional information on Commonwealth Choice, contact the agency Personnel Administrator.

## **Kentucky Employee Assistance Program (KEAP)**

The Kentucky Employee Assistance Program (KEAP) is dedicated to helping employees find solutions to personal problems that may hinder effectiveness at work. Problems concerning marital, family, or emotional distress, alcoholism and drug abuse, financial or legal difficulties, or even medical problems can seriously diminish an individual's job performance. As a progressive employer, the Commonwealth of Kentucky recognizes that there are positive, workable solutions to many of these problems which trouble employees. All state employees and their families are eligible for KEAP services, and there is no cost for its information or referral services. All contact with KEAP is strictly confidential; any personal information disclosed will be kept confidential to the full extent permitted by state and federal law.

## **Drugfree Workplace**

The Drug Free Workplace Act of 1988, 41 U.S.C. §701 et. seq., provides that recipients of federal grants shall inform their employees that the unlawful manufacture, distribution, dispensation, possession, or use of alcohol and other controlled drugs in any designated workplace is prohibited. Conviction for such conduct may subject the employee to appropriate disciplinary action under state law, up to and including dismissal. The state may, in lieu of disciplinary personnel action, require an employee convicted of such conduct to participate in a drug abuse assistance or rehabilitation program.

## **Health and Safety**

The Commission adheres to federal and state laws established to guarantee the health and safety of all employees in the workplace. Employees must follow the safety rules and procedures pertaining to their work unit. They must also maintain a personal commitment to exercising safe work habits and practices. For further information regarding health and safety in the workplace, please contact the agency Safety Coordinator.

## Disciplinary Action

Supervisors are responsible for disciplining employees for just cause including conduct while on or off duty which may be prejudicial or detrimental to the Commonwealth or otherwise affect adversely the confidence of the public in the integrity of the Commission. Discipline may range from written reprimand to suspension or dismissal from state service. If an employee disagrees with any discipline received, he may appeal the action. The steps outlining these procedures are described in the Grievances Section.

## Grievances

A grievance is a complaint filed by an employee which concerns some aspect of his employment. A grievance must be filed within thirty (30) days of the date of the action complained of or the date upon which the employee, exercising due diligence, became aware of the action.

### Procedures

1. A grievance shall be filed with the employee's immediate supervisor.
2. The employee shall set forth in writing the basis of his grievance or complaint together with the corrective action desired. If the employee wishes to submit additional information or documentation, he may attach it to the grievance.
3. When a grievance is filed that alleges discrimination on the basis of race, color, religion, national origin, sex, disability or age (forty (40) or over), the supervisor shall immediately notify the agency Personnel Administrator in compliance with affirmative action requirements.
4. Interviews to evaluate or investigate the grievance held with the complainant or other employees shall not require the use of leave time. For interviews held outside of normal working hours, compensatory time shall be granted.

5. All parties may have a representative present at each step of the grievance procedure.

To obtain additional information, contact the agency Personnel Administrator.

## **Misuse of Facilities or Equipment**

No employee shall use any equipment, supplies, or properties of the Commonwealth for other than officially designated purposes. Any questions in this area should be directed to the employee's immediate supervisor.

Telephones are to be used for state business. If it is necessary for employees to make personal long-distance calls, they shall reimburse the state for personal calls in cash or by personal check payable to Kentucky State Treasurer.



## PROFESSIONAL CONDUCT AND ETHICAL RESPONSIBILITIES

Employees of the Commission work for the benefit of the people of the Commonwealth of Kentucky. As public servants, employees are bound to adhere faithfully to standards of professional and ethical conduct. Employees represent the Commission and are expected to conduct themselves in a manner which will inspire the confidence, trust, and respect of the public.

Principles of ethical behavior are based on the belief that public servants must be independent and impartial; government policy and decisions must be made through established processes; public servants must not use public office to obtain private benefits; and the public should be able to have confidence in the integrity of its government. KRS 11A.005. The Commission requires its employees to avoid conflicts of interest, improper ex parte communications, and participation in activities which present the appearance of impropriety.

The following guidelines are set forth to illuminate areas of concern:

### A. Adverse Pecuniary Interest

Commissioners are statutorily prohibited from holding an official position or owning stocks, bonds, or any other pecuniary interest in a utility. KRS 278.060(2). The Commission has adopted the same prohibition for its staff. The Commission has determined that participation in an investment plan where utility stocks or bonds are purchased as part of a total portfolio and where the Commission staff member has no control over the company chosen for investment (such as a mutual fund), does not constitute a violation of this prohibition. Any staff member who is in violation of this policy shall immediately disclose that fact to the Executive Director.

All employees are subject to the provisions of the Kentucky Model Procurement Act ("Act") which detail prohibited conflicts of interest for public officers and employees. An employee cannot be interested, either directly or indirectly, in any contract in which he may be called to act or vote. KRS 45A.430. Likewise, the Executive Branch Ethics Code ("Code"), applying to all employees of the Commission, prevents a public servant from acting as a representative of the state in a business transaction with himself or in any business in which he or a family member has a greater than five percent interest. KRS 11A.040(3). "Family" is defined in KRS 11A.010(4) to mean a person's "spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption:

parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister."

Another Code provision, KRS 11A.040(4), could affect employees by providing that they and their family members holding more than a five percent interest in a business cannot be parties, directly or by virtue of their partial ownership of the business, to any contract, agreement, lease, sale or purchase between that business and any state agency. For example, it is impermissible for the owner of a computer business to sell products to the Department of Human Resources if at least five percent of its shares are owned by the spouse of a Commission employee. Violation of this statute is a Class D felony.

#### **B. Gifts and Favors**

The Code provides that a public servant cannot knowingly accept compensation, other than that provided by law for public servants whose salary is paid by the Commonwealth, for the performance of any activity included in his official duties. KRS 11A.010(5). Compensation is defined as "any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another." KRS 11A.010(3).

The Executive Branch Ethics Commission has concluded that when dealing with a civic organization or other organization not comprised of entities regulated by the commission:

"an executive branch employee may accept a free meal at an event in which he is invited to participate in furtherance of his official duties, provided these tests are met:

1. The meal is an integral part of the event and the employee's role in the program occurs immediately before, during, or immediately after the meal.
2. The employee's meal is the same available to all others at the event and is consumed on the premises.

We also approve acceptance of a small token of appreciation such as a coffee mug. Public servants are encouraged to make speeches and presentations for the benefit of citizens of the Commonwealth, but public servants shall be zealous to accept nothing more than a small token of appreciation." AO 90-10.

The Executive Branch Ethics Commission states that employees involved in regulating utilities should not accept meals or beverages from those utilities or trade associations whose members are regulated utilities. AO 93-50.

The Commission prohibits its employees from accepting any item, including food or entertainment, from any employee of or executive agency lobbyist for a regulated utility. The Commission strives to avoid the public perception that an improper relationship may exist between regulated utilities and the Commission or its staff.

#### **C. Representing Non-State Interests**

No employee shall represent or act as an agent for any private interest, whether for compensation or not, in any transaction in which the state has a direct and substantial interest and which could be reasonably expected to result in a conflict between a private interest of the official or employee and his official state responsibilities.

#### **D. Misuse of Information**

The Code prohibits Commission employees from knowingly disclosing or using confidential information acquired during the course of their work. KRS 11A.040(1).

Employees should carefully and conservatively evaluate a document before providing it or describing its contents to anyone other than another Commission employee. Consult the Commission's General Counsel for assistance if you are unable to determine whether a particular document should be released.

#### **E. Outside Employment**

Members of the Commission are required by statute to devote their entire time to the duties of their offices. KRS 278.050(1). Members of the Commission's staff are not legally prohibited from having other jobs. However, employees who do seek outside employment are expected to ensure there is no conflict with their Commission duties. Employees who are unsure whether outside employment conflicts with their Commission duties should notify the Executive Director or consult the General Counsel.

#### **F. Post-Commission Employment**

The Code places three restrictions on the type of employment a public servant is permitted to accept after leaving state government:

1. A former public servant may not act as a lobbyist or lobbyist's principal for a period of one year after the date he leaves state employment or his term of office expires, whichever is later.
2. A former public servant may not represent a person in a matter before a state agency in which the former public servant was directly involved for a period of one year after the date he leaves employment or his term of office expires, whichever is later.
3. A present or former public servant may not, within six months of the termination of his state employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during his tenure. This prohibition does not apply to individuals returning to the same business, firm, occupation, or profession in which they were involved prior to state government employment. The Executive Branch Ethics Commission has indicated through its Executive Director that it considers the Commission to be "doing business" with the utilities it regulates.

**G. Improper Ex Parte Communication**

1. "Ex parte communication" means an oral or written communication which relates to the merits of a formal proceeding pending before the Commission, or which the employee reasonably anticipates will be filed with the Commission, and which is not included in the public record, without notice and opportunity for all parties or interested persons to participate. A communication relevant to the merits includes any issue of fact or law relative to the matter pending.
2. The following types of communication are not prohibited ex parte communications if such communication is reasonably limited to the matter at hand:
  - (a) Any procedural inquiry, including prefiling inquiries.
  - (b) Staff's communications when performing routine operational inspections and safety inspections not for the purpose of investigating a matter pending before the Commission.
  - (c) Staff's communications when performing management audits pursuant to KRS 278.255 and routine field audits of accounts, books, and the Commission.

- (d) Staff's communications when performing cell site field inspections.
  - (e) Staff's communications when performing field reviews or inspections for preparation of Commission staff reports to be filed in pending or anticipated rate cases.
  - (f) Staff's communications in cases without intervenors, unless the staff determines intervention is likely.
3. Commissioners or Commission staff shall not participate in any prohibited ex parte communication with any interested person regarding the merits of any formal case or proceeding pending before the Commission or a case or proceeding that the employee anticipates will be filed with the Commission. It is improper to disclose a Commission decision prior to the issuance of an Order on the matter.
  4. If an employee participates in a prohibited ex parte communication, he shall immediately disclose the relevant details of the communication to the General Counsel.

#### **H. Executive Agency Lobbyists**

As of September 16, 1993, any individual who is engaged to promote, oppose, or otherwise influence the outcome of an executive agency decision is considered an executive agency lobbyist and is required to register with and make certain disclosures to the Kentucky Executive Branch Ethics Commission.

An "executive agency decision" is narrowly defined to include only those agency decisions regarding the expenditure of state or agency funds with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated. PSC employees are rarely involved in agency decisions affecting the disbursement or allocation of state or agency funds.

However, executive agency lobbyists are required to report on a quarterly basis all expenditures made on behalf of or financial transactions with any executive branch employee in any agency, whether or not the employee works for the agency the executive agency lobbyist was engaged to influence. All Commission employees must be aware that disclosure of expenditures and financial transactions involving them could be detrimental to the public's perception of the Commission and act accordingly.

**Kentucky Public Service Commission**  
**730 Schenkel Lane**  
**Frankfort, Kentucky 40601**  
**(502) 564-3940**  
**(502) 564-7279 fax**  
**(800) 772-4636 Public Information Hot Line**

WHEN THE PUBLIC ASKS FOR DIRECTIONS TO PUBLIC SERVICE COMMISSION:

Take I-64 to the Frankfort/Versailles exit (Exit 58). Turn off the exit onto U.S. 60 (Versailles Road) toward Frankfort. Follow U.S. 60 all the way in until you reach the intersection of U.S. 60, 460 and 421 (approximately 3 miles). As you approach the intersection, the road will widen to 5 lanes and a sign will read "Capital Plaza Complex". Continue straight through the light onto U.S. 421 (Wilkinson Boulevard) for approximately 1 mile. At the first light (at Hardee's) you will turn right onto Schenkel Lane. We are on the second block, in a two-story brick building located on the right, across from the Chrysler dealership (Frankfort Auto Sales) and right before you get to the liquor store

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